

201 KAR 46:095. Administrative subpoena.

RELATES TO: KRS 311B.050(7), 311B.160, 311B.170

STATUTORY AUTHORITY: KRS 311B.050(1), (2), KRS 311B.050(7)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 311B.050(1) and (2) require the Board of Medical Imaging and Radiation Therapy to promulgate administrative regulations to administer and enforce KRS Chapter 311B. KRS 311B.050(7) requires the board to investigate suspected and alleged violations of KRS Chapter 311B. This administrative regulation establishes procedures for issuing an administrative subpoena, which is necessary to investigate and resolve suspected and alleged violations.

Section 1. The Board of Medical Imaging and Radiation Therapy may issue an administrative subpoena to investigate a complaint or suspected violation of KRS Chapter 311B or 201 KAR Chapter 46.

Section 2. Administrative Subpoenas. (1) The board shall issue a subpoena in accordance with KRS 311B.050(7) to require the production of books, electronic records, papers, documents, or other evidence at a specified time and place.

(2) If information requested by the board is encrypted, the respondent shall:

(a) Provide the information in a readable format; and

(b) Provide proof acceptable to the board that the requested information has been translated to a readable format without error or omission.

(3) A person or entity served with a subpoena in accordance with subsection (1) of this section shall not intentionally destroy, alter, or falsify documents requested by the board.

Section 3. Noncompliance. (1) If a person fails without good cause to produce requested documents in accordance with Section 2(1) of this administrative regulation, the board may apply to the circuit court of the county in which compliance is sought for an appropriate order to compel compliance with the provisions of the subpoena.

(2) If a person served with a subpoena issued pursuant to Section 2(1) of this administrative regulation believes that the subpoena seeks to compel the production of documents that are protected, privileged, or not properly the subject of an administrative subpoena, the individual may, prior to the date designated for the production of the documents, apply to the circuit court of the county in which compliance is sought for an appropriate protective order limiting the scope of the subpoena or quashing it entirely. (44 Ky.R. 1454, 1821; eff. 2-15-2018; 44 Ky.R. 1454, 1821; eff. 2-15-2018.)